

UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL ADJUSTMENT ADMINISTRATION  
WASHINGTON, D. C.

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REGULATIONS PERTAINING TO REFUND OF PENALTY  
ERRONEOUSLY, ILLEGALLY, OR WRONGFULLY COL-  
LECTED BY THE SECRETARY OF AGRICULTURE WITH  
RESPECT TO THE MARKETING OF TOBACCO

UNITED STATES DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by Section 372 (c) of Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938, as amended, I, H. A. WALLACE, Secretary of Agriculture, do hereby make, prescribe, publish, and give public notice of the following regulations pertaining to the refund of penalty erroneously, illegally, or wrongfully collected by the Secretary of Agriculture with respect to the marketing of tobacco, such regulations to be in force and effect until amended, or superseded, by regulations hereafter made by the Secretary of Agriculture under said act.

Done at Washington, D. C., this 5th day of November, 1938. Wit-  
ness my hand and seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

**SECTION 1. Who may claim.**—Claim for refund of any sum of money, erroneously, illegally, or wrongfully collected as penalty with respect to marketing of tobacco may be made by:

- (a) Any person who was entitled to share in the price paid to the producer with respect to any sale from which a deduction was made, pursuant to Section 314 of the act, and who bore the burden of such deduction; or
- (b) Any person who paid such penalty on any sale and who did not deduct from the price paid to the producer in connection with such sale the amount thereof pursuant to Section 314 of the act.

If under either paragraphs (a) or (b) above more than one person is entitled to file a claim with respect to a sale, then a joint claim may be filed by all such persons.

**SEC. 2. Manner of filing.**—Claim for refund shall be made on Form 38-Tobacco 48 and shall be filed in the county office.

**SEC. 3. Time of filing.**—Any such claim must be filed within one year after payment to the Secretary of the penalty with respect to which claim is made.

The date the penalty is received by the Office of the Comptroller of the Agricultural Adjustment Administration, United States De-

partment of Agriculture, shall constitute the date when payment of such penalty was made to the Secretary.

**SEC. 4. Statement of claim.**—Full and complete information shall be given on Form 38-Tobacco 48 concerning the sale of tobacco with respect to which claim is made; the names, addresses, and proportionate shares in the amount claimed, of all persons who had an interest in the purchase price paid for the tobacco and who bore the burden of such penalty; and the reasons why such penalty is claimed to have been erroneously, illegally, or wrongfully collected. There should be attached to the claim all pertinent documents, such as warehouse bill, marketing card, etc.

**SEC. 5. Execution of claim.**—The claim (Form 38-Tobacco 48) shall be executed in the same manner as is provided in ACP-16, "Instructions on Signatures and Authorizations", for the execution of applications for payment or related papers under the Agricultural Conservation Program.

**SEC. 6. Certificate of operator.**—Where the claim is made by a producer other than an operator, the Certificate of Operator must be executed by the person who was the operator of the farm at the time of the sale of the tobacco with respect to which claim was made.

**SEC. 7. Designation of trustee and declaration of trust.**—Where there is more than one claimant and all the claimants desire to appoint a trustee to receive and disburse any payment to be made to them with respect to the claim, such trustee shall be appointed in the Designation of Trustee contained in paragraph "(4)" Form 38-Tobacco 48 and in the event of such appointment, the person so designated as trustee shall execute the Declaration of Trust provided on said form.

**SEC. 8. Certification by county committee.**—Immediately upon receipt of a claim (Form 38-Tobacco 48), the county committee shall record on the face thereof the date of its receipt. If it determines on the basis of information available to it that the data and representations on the claim are correct, one of its members shall on behalf of the committee so certify in the place provided therefor. The committee shall, in any event, forthwith transmit the claim to the Tobacco Section, Agricultural Adjustment Administration, Washington, D. C.

**SEC. 9. Examination of claim.**—The Tobacco Section shall examine the claim (Form 38-Tobacco 48) and make such investigation as may be necessary. After consideration of the claim, the Chief of such section, or someone designated by him in writing, shall endorse thereon the amount recommended for payment stating the reasons therefor and shall submit the claim to the Solicitor for legal approval. Upon approval of the claim by the Solicitor, or someone designated by him in writing, the claim shall be transmitted to the Comptroller for his approval. If the claim is not recommended or approved for payment, the Chief of the Tobacco Section shall notify the claimant that his claim has been rejected.

**SEC. 10. Certification by Comptroller.**—The Comptroller, for and on behalf of the Secretary, shall certify on "Public Voucher for Refunds of Marketing Penalties" (Form 38-A. A. A.-11) and on "Public Voucher for Refunds of Marketing Penalties—Continuation Sheet" (Form 38-A. A. A.-10) to the Secretary of the Treasury of the United States for payment all such claims for refund as have been approved.



**SEC. 11. Instructions and forms.**—The Administrator of the Agricultural Adjustment Administration, United States Department of Agriculture, shall cause to be prepared and issued with his approval such instructions and forms as may be required to carry out these regulations.

**SEC. 12. Gender and plural meaning of terms.**—Any term used in the masculine or in the singular shall also be considered as applied in the feminine or neuter gender, or in the plural or singular person, whenever the context or application of such terms shall require.

**SEC. 13. Definitions.**—As used in these regulations and in all forms and documents in connection therewith, unless the context of the subject matter otherwise requires:

(a) **Act** means the Agricultural Adjustment Act of 1938 (52 Stat. 31) and any amendments thereto.

(b) **Secretary** means the Secretary of Agriculture of the United States.

(c) **Regulations** means these regulations pertaining to refund of penalty, erroneously, illegally or wrongfully collected by the Secretary of Agriculture with respect to the marketing of tobacco.

(d) **County committee** means the county committee utilized under the act.

(e) **County office** means the office of the county committee.

(f) **Comptroller** means the Comptroller, or Acting Comptroller of the Agricultural Adjustment Administration, United States Department of Agriculture.

(g) **Farm** means the farm for which the marketing quota was established.

(h) **Operator** means the producer who is in charge of the supervision and the conduct of the farming operations on the entire farm.

(i) **Producer** means the person who, as owner, landlord, tenant, sharecropper, or laborer was entitled under the provisions of his agreement relating to the production of tobacco to share in the tobacco marketed from the farm.

(j) **Farm marketing quota or quota** means a tobacco marketing quota established for a farm under Title III of the act.

(k) **Sale** means the disposition subject to penalty of one or more lots of tobacco covered by one memorandum of sale.

(l) **Memorandum of sale** means the form or forms prescribed by the Secretary and used in connection with the marketing of tobacco for the purpose of determining whether or not such marketing was subject to penalty.

(m) **Claimant** means any person who makes claim on Form No. 38-Tobacco 48, in accordance with these regulations.

(n) **Claim** means a request for refund of penalty on Form No. 38-Tobacco 48.

(o) **Penalty** means an amount of money collected by the Secretary from any person with respect to the marketing of tobacco.

(p) **Person** means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State, or of the Federal Government.

(q) **Tobacco Section** means the Tobacco Section, Agricultural Adjustment Administration, United States Department of Agriculture, Washington, D. C.

